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SUPREME COURT OF THE UNITED STATES.

No. 149.

THE UNITED STATES, APPELLANTS,

vs.

HENRY CAMBUSTON.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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GIDEON, Print.

Transcript of the proceedings in case No. 511—*Henry Cambuston, claimant,* vs. *The United States, defendant—for the place named "Eleven square leagues of land."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this fourteenth day of January, Anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Henry Cambuston, for eleven square leagues of land, was presented, and ordered to be filed and docketed with No. 511, and is as follows, to wit:

(Vide page of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *September 27th,* 1853.

In case No. 511, Henry Cambuston, for 11 leagues in Butte county, the deposition of Manuel Diaz, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page of this Transcript.)

SAN FRANCISCO, *November* 3, 1853.

In the same case, the deposition of Victor Prudon, a witness in behalf of the claimant, taken before Commissioner R. Aug. Thompson, was filed.

(Vide page of this Transcript.)

SAN FRANCISCO, *November* 5, 1853.

In the same case, the deposition of P. B. Reading, a witness in behalf of the claimant, taken before Commissioner R. Aug. Thompson, was filed.

(Vide page of this Transcript.)

SAN FRANCISCO, *December* 5, 1854.

Case No. 511 was caused to be placed at the foot of the 3rd class cases on the trial docket.

SAN FRANCISCO, *March* 19, 1855.

In the same case, the deposition of James L. Ord, a witness in behalf of the claimant, taken before Commissioner R. Aug. Thompson, was filed.

(Vide page of this Transcript.)

SAN FRANCISCO, *March 20th*, 1855.

Case No. 511 was submitted on briefs, and taken under advisement by the board.

In the same case, the deposition of Elisha C. Crosby, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page of this Transcript.)

SAN FRANCISCO, *March 27th*, 1855.

In the same case, the deposition of Jacob Antonio Morenhont and Manuel Castro, witnesses in behalf of the claimant, taken before Commissioner Peter Lott, were filed.

(Vide page of this Transcript.)

SAN FRANCISCO, *July* 10, 1855.

In the same case, Commissioner R. Aug. Thompson delivered the opinion of the board confirming the claim.

(Vide page of this Transcript.)

And the following order was made, to wit:

(Vide page of this Transcript.)

Petition.

To the honorable commissioners to settle private land claims in California.

The petition of Henry Cambuston respectfully shows:

That on the 23rd day of May, A. D. 1846, Pio Pico, constitutional governor of California, granted to your petitoner a tract of land situate in the present county of Butte, containing eleven square leagues of land, more or less, with the boundaries set down in the title and respective map, all of which is shown in the espediente and title, a copy of which title so issued by said Pico is herewith submitted, marked "A," with a translation marked "B."

Your petitioner further shows, that the said tract of land has not been surveyed by the surveyor general of the United States, and that the boundaries are fully described in the grant, and are well known.

That immediately after issuing the grant aforesaid, in the beginning of the summer of the year 1846, your petitioner entered upon and took possession of said tract of land; that he erected a house thereon, and put about fifty head of young cattle upon said land, leaving an agent to take care of them.

That, sometime thereafter, the Indians becoming troublesome and hostile, and the war with the United States of America *have* broke out, his agent became alarmed and fled from the premises, and his stock of cattle were a total loss to him.

Your petitioner further says, that he knows of no conflicting claim; that he relies for confirmation of his title upon the original documents aforesaid, upon the records and minutes in the archives now under

the charge of the surveyor general, and upon such further proofs as he may be advised are necessary.

Wherefore, he prays the commissioners to confirm to him the aforesaid tract of land.

CHARLES GILMAN,
Att'y for Petitioner.

Filed in office, Jan'y 14, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Depo. of Manuel Diaz.

OFFICE OF BOARD OF U. S. COMMISSIONERS TO, &c.

This day, before Commissioner Alpheus Felch, came Manuel Diaz, a witness in behalf of claimant, Henry Cambuston, No. 511, who after being duly sworn deposed as follows:

Questions by Mr. Gilman, Attorney for the Claimant.

1st question. What are your name, age, and place of residence?

Answer. My name is Manuel Diaz; my age is forty-one years, and I reside at Monterey, in California.

2d question. Are you acquainted with Henry Cambuston, the claimant in this case?

Answer. I am.

3d question. Do you know the land owned by Mr. Cambuston in the Sacramento valley; if so, state what you know of the locality of it, and of the occupation by him, and of the improvements made on the premises?

Answer. I know the land; I have been there once; it was in August or September, 1848. It is situated about fifteen leagues from Fort Sutter, on Sacramento river, and is near the three Buttes. In 1847, I sold Mr. Cambuston fifty head of cattle, which I delivered on his order, at my place in Monterey county. Mr. Cambuston told me they were to be taken to his rancho before-mentioned, and his servant who came for the cattle said they were going to take them.

When I was there in 1848, I saw a small house and a corral on the place; there were also some cattle and some horses on it; I do not know their number. Pedro Garcia was on the place at that time, and was the only civilized man there; there were also some two or three Indians on it.

4th question. Do you know whether Garcia was occupying the land for himself, or under Mr. Cambuston?

Answer. He occupied it as the servant of Mr. Cambuston.

5th question. Do you know whether the three Buttes are on the dividing line between the land of Cambuston and Sutter?

Answer. Mr. Cambuston told me at the time I was there that they were, but I do not know anything of my own knowledge about it. I never saw any title papers.

MAN'L DIAZ.

Mr. Greenhow, associate law agent, attended to the taking of this deposition, but propounded no questions to the witness.

The testimony was given in the Spanish language, Mr. Fisher acting as interpreter.

Subscribed and sworn to before me, this twenty-sixth day of September, 1853.

ALPHEUS FELCH, *Commissioner.*

Filed in office, September 27, 1853.

(Signed) GEO. FISHER, *Sec'y.*

Depo. of Victor Prudon.

OFFICE OF THE BOARD OF COMMISSIONERS, &c., &c.

This day, before Comm'r R. Aug. Thompson, came Victor Prudon, a witness in behalf of Henry Cambuston, No. 511, who after being duly sworn, deposed as follows:

Testimony on behalf of Claimant.

Present, A. Navarro, for claimant, and R. Greenhow, esq., ass't law agent.

Witness states his name to be Victor Prudon; age forty-four years; residence San Francisco.

Question by claimant's counsel. Are you acquainted with the land claimed in this case, called Los Picas; if so, state if you know when it was first occupied, and the character of the occupation and improvements thereon, and when the latter were made?

Answer. I know the rancho; I was there in 1846; I do not know when it was first occupied. When I was there in October, 1846, the claimant, Henry Cambuston, was living on it; he had a small house there, some land enclosed and in cultivation, a small stock of cattle, &c. I also saw a few Indian laborers, and one white man, a mayordomo or manager.

There were six or eight hundred varas in cultivation, and some corrals. I was informed by the claimant that the rancho contained eleven leagues.

V'R PRUDON.

Sworn to and subscribed before me, Nov. 3, 1853.

(Signed) R. AUG. THOMPSON, *Comm'r.*

Filed in office, Nov. 3, 1853.

(Signed) GEO. FISHER, *Sec'y.*

Depo. of P. B. Reading.

Case No. 511.—Henry Cambuston.

OFFICE OF THE BOARD OF COMMISSIONERS, &c., &c.

This day, before Commissioner R. Aug. Thompson, came P. B. Reading, a witness in behalf of Henry Cambuston, No. 511, who after being duly sworn deposed as follows:

Testimony in behalf of Claimant.

Present, V. E. Howard, att'y for claimant.

Witness states his name to be Pierson B. Reading; his age thirty-six, and residence Shasta county, Cal'a.

Question by claimant's attorney. State if you know the northern boundary of New Helvitia or Sutter's Ranch, and describe it?

Answer. I know what is reported to be the northern boundary of said ranch; it runs east and west from the Sacramento river, above the three buttes or peaks, to Feather river, and is about fifteen miles in length.

Question by same. What is the direction along that line, from the Sacramento river to Flugger's Ranch or land?

Answer. I am not acquainted with the western boundary of Flugger's Ranch; said ranch is situated on the western side of Feather river, considerably above the northern line of New Helvitia, and runs back in the direction of the Sacramento with said line, but I do not know what distance.

Question by same. What do you understand to be the southern boundary of Henry Cambuston's land?

Answer. I have always understood it to be the northern line of New Helvitia or Sutter's Ranch.

P. B. READING.

Sworn to and subscribed before me, Nov. 5, 1853.

R. AUG. THOMPSON,
Comm'r.

It is agreed by the U. S. ass't law agent, that this deposition may be read in No. 92, case of J. A. Sutter.

R. AUG. THOMPSON, *Comm'r.*

Filed in office, Nov. 5, 1853.

(Signed) GEO. FISHER, *Sec'y.*

Depo. of J. L. Ord.

UNITED STATES LAND COMMISSION,
SAN FRANCISCO, *March* 17, 1855.

On this day, before Commissioner R. Aug. Thompson, came James L. Ord, a witness on behalf of the claimant, Henry Cambuston, in case No. 511, who, after being duly sworn, deposed as follows:

Present, claimant's attorney and United States law agent.

In answer to questions, witness states his name is James L. Ord, his age thirty-one years, and residence Monterey, California.

1st question by claimant's counsel. Are you acquainted with the lands claimed in this case by Henry Cambuston, for eleven leagues in Butte county?

Answer. I am acquainted with said lands.

2 question by same. How or in what manner did you become acquainted with the same?

Answer. I have seen the lands, and I think I have been on them. I acted as agent for the sale of an adjoining tract.

3 question by same. About how much land is contained within the following boundaries: on the north by Don Antonio Osio, on the south by Capt. Sutter, on the east by Mr. Flugge, and on the southwest by the Sacramento river?

Answer. I cannot say definitely, my attention not having been drawn when in that section of country to this particular tract. The character of the country in which this land is situated is a broad plain. I am acquainted with the boundaries of the ranches named in the question, from being conversant with the grants, and I should suppose the land comprised within the limits referred to would be from five to ten leagues.

1st question by U. S. law agent. Where do you locate the line of Sutter's Ranch in estimating the quantity of land?

Answer. About fifteen miles northwest of the Buttes.

2 question by same. What enables you to locate Sutter's line at that point?

Answer. From having seen a map of a recent survey of that section of the country in the surveyor general's office.

3 question by same. What was there on said map which enables you to locate said boundary?

Answer. The township lines, and I think Sutter's northern line was also marked on said map.

4th question by same. Do you know upon what data Sutter's line was marked on said map, and is that your only means of knowledge of the location of said line?

Answer. I presume it was from the calls of Sutter's grant, making a certain degree of latitude the northern boundary, but I do not know of my own knowledge. I have also read the original grant of Sutter.

5 question by same. What was Sutter's northern boundary according to the calls of said grant?

Answer. The Buttes were called for, and a certain degree of latitude, but I do not recollect precisely what degree.

6 question by same. What was the course and distance of Sutter's northern line, upon which your estimate of quantity is based?

The course was about east and west, running from the Sacramento to Feather river, a distance of perhaps five or six leagues.

7th question by same. In making your said estimate of quantity, where and upon what data do you locate the line of Osias Ranch?

Answer. I had charge of Osias Ranch; the boundaries are very indefinite, and include more land than is called for in the grant. I calculated from the calls of the grant and the general character. The country about where the line would run through, I cannot describe its precise position.

8 question by same. In making that calculation how far did you place that line north of the Buttes?

Answer. I cannot state positively, as distances are very deceiving in the plains, but I supposed it to be twenty or twenty-five miles, more or less.

9 question by same. What calls of Osias grants or other data enabled you to locate that line at that distance from the Buttes?

Answer. From my general impression of the calls of the grant. I have not seen the grant for some time, and my recollection of its calls are indistinct; I know they were indefinite, but I fixed the line there from my knowledge of the country.

10 question by same. What particular facts within your recollection enabled you to fix the line at that point?

Answer. The Buttes, a very prominent object, the Sacramento river, and the foot of the hills to the north.

11th question by same. How far is it from the said Buttes to the said foot hills?

Answer. I think it is about thirty miles, according to my impression formed at the time.

12th question by same. Draw a line eastward and west, through the summit of the Buttes, as Capt. Sutter's northern boundary. How much land would be included in this tract, according to your estimate?

Answer. The quantity would in my opinion be a good deal more than doubled.

13th question by same. If Sutter's northern boundary was at the southern part of the Buttes?

Answer. I should suppose an east and west line drawn along the southern foot of the Buttes would be a niche or two further south than a similar one drawn across the summit.

14th question by same. By what data did you arrive at the position of the western line of Flugge's Ranch in making your said estimate?

Answer. I knew Flugge's Ranch was situated on the western bank of Feather river, and estimated a league or two from Feather river as the position of the western line.

JAMES L. ORD.

Sworn to and subscribed before me, this 17th day of March, 1855.
R. AUG. THOMPSON, *Comm'r.*

Filed in office, March 19th, 1855.
(Signed) GEO. FISHER, *Sec'y.*

Depo. of E. O. Crosby.

UNITED STATES LAND COMMISSION,
SAN FRANCISCO, *March* 20, 1855.

On this day, before Commissioner Alpheus Felch, came Elisha O. Crosby, a witness on behalf of the claimant in case No. 511, who, after being duly sworn, deposed as follows:

Questions by Mr. Howard, Attorney for Claimant.

1 question. Please state your name, age, and place of residence.

Answer. My name is Elisha O. Crosby, my age thirty-eight years, and I reside in Santa Clara county, California.

2 question. Are you acquainted with the signatures of Pio Pico and José Moreno? If yea, state your means of knowledge.

Answer. I am acquainted with the signature of Pio Pico; I have seen him write, and have received several business letters from him. I do not know the signature of Moreno.

3 question. Look at the espediente or copy of a grant hereto annexed and marked "Exhibit No. 1," with the initials A. F., and say if you have compared it with the original on file in the surveyor general's office; and if yea, is it a true copy, and also whether the signatures of Pio Pico and Moreno signed to the original are genuine.

Answer. I have compared it with said original, and find this to be a true copy thereof. The signature of said Pico on said original, I believe to be his true and genuine signature.

I have already stated that I am not acquainted with Moreno's signature.

E. O. CROSBY.

Mr. McKune, law agent, attended at the taking of this deposition, but propounded no interrogatories.

Subscribed and sworn to before me, this 20th day of March, 1855.

ALPHEUS FELCH, *Commissioner.*

Filed in office, March 20, 1855.

(Signed) GEO. FISHER, *Secr'y.*

Depo. of J. A. Morenhont.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *March* 23, 1855.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Jacob Antonio Morenhont, a witness on behalf of the claimant, Henry Cambuston, in case No. 511 on the docket of said board, and said witness being sworn deposed as follows:

The U. S. law agent is present.

Questions by Mr. Howard for Claimant.

1 question. What is your name, age and place of residence?

Answer. Jacob Antonio Morenhont; age fifty-seven; my place of residence is at Monterey.

2d question. Look at the place now shown you, being the espediente filed in this case marked "A," and say if you have compared it with any paper on file in the surveyor general's office; and if so, what paper.

Answer. I have compared it with the original on file in the surveyor general's office, and this appears to me to be a true copy.

3rd question. When did you first see the original, and when was it deposited in the archives of the surveyor general?

Answer. The first time I saw the original was in the beginning of 1847, in the possession of Mr. Cambuston. I was French consul in Monterey, in 1848, when he deposited this title, together with other papers in my possession. He withdrew it sometime in 1849, and told me subsequently that he had deposited the title in the archives of the United States.

4th question. Are you acquainted with the signature of José Mateas Moreno, attached to the original grant in this case?

Answer. I never saw him write but once; I have corresponded with him.

5th question. Is his signature attached to said original grant genuine?

Answer. So far as I can judge it is his genuine signature.

Cross-examined by U. S. Law Agent.

1st question. Have you any interest in the event of this suit?

Answer. I am an agent of Mr. Cambuston. He promised to give me one-eighth of the land for my labor, but there never has been any deed made to me.

J. A. MORENHONT.

The law agent objects to the deposition on the ground of the interest of the witness.

Subscribed and sworn to before me, on this 23d day of March, A. D. 1855.

PETER LOTT, *Commissioner*.

Filed in office, March 27, 1855.

(Signed) GEO. FISHER, *Sec'ry*.

Deposition of Man'l Castro.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *March* 23, 1855.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Manuel Castro, a witness on behalf of the claimant, Henry Cambuston, in case No. 511 on the docket of said board; and said witness being sworn, deposed in Spanish, which was interpreted by the interpreter to said board, as follows:

The U. S. law agent is present.

1st question. What is your name, age, and residence?

Answer. My name is Manuel Castro; my age 33 years; and I reside in Monterey, California.

2d question. Look at the espediente in this case, marked "B. P. L," and hereto annexed, and state whether you have compared the same

with the original in the archives at the surveyor general's office, and whether it is a copy of the original title?

Answer. I have not compared the said espediente "B. P. L." with its original in the archives at the surveyor general's office; but I have seen the original grant of which this is a copy in the office of the surveyor general, and know that this is an exact copy thereof, because the parties mentioned herein, and place and number of sitios, are the same as those cited in the said original which I saw.

3d question. Are you acquainted with the signatures of Pio Pico and José Mateas Moreno; how did you become acquainted with them; and state whether or not you consider the signatures of the said persons where they occur in and upon the said original to be their genuine signatures?

Answer. I do know the signatures of the said Pio Pico and José Mateas Moreno, having seen them both write often; and their signatures, where they appear on the aforesaid original, are the genuine signatures of said persons.

MAN'L CASTRO.

Subscribed and sworn to before me, on this 23d day of March, A. D. 1855.

PETER LOTT, *Commissioner.*

Filed in office, March 27, 1855.

(Signed) GEO. FISHER, *Sec'ry.*

Exhibit No. 1.—*A. F.*

[1 S. D. K.]

[SELLO.] (A.)—Copy of the Grant.

Pio Pico, Gobernador Constitucional del Departamento de Californias:

Por cuanto Don Enrique Cambuston, ha pretendido para su beneficio personal un terreno baldio en el valle del Sacramento, colindante al norte con Don Antonio Osio, al sur con el Señor Sutter, al este con el Señor Flugge, y al sud este con el rio del Sacramento; practicadas previamente las averiguaciones concernientes, segun lo dispuesto y de conformidad con la ley de 18 de Agosto, de 1824, y el reglamento de 21 de Noviembre, de 1828, he venido en uso de las facultades que me estan conferidas á nombre de la nacion Mejicana, en concederle el terreno espresado que resulte fuera de los linderos de los colindantes mencionados, declarandoles la propiedad de el por las presentes letras á reserva de la aprobacion de la ex'ma asamblea departamental, y bajo las condiciones siguientes:

1a. Podra cercarlo sin perjudicar las travesias, caminos y servidumbres, lo disfrutará libre, y exclusivamente, destinandolo al uso ó cultivo ql. mas le acomode.

[2 S. D. K.]

Cuando se le conforme la propiedad solicitara del juez respectivo le de la posecion juridica en virtud de este despacho por el cual se demarcaren, los linderos con las mojoneras necesarias.

3a. El terreno de que se hace donacion es de la estension de once sitios de ganado mayor, si los hubiere fuera de otros propiedas cuyos limites debean respetarse, y si los hubiere se conformara la parte agraciada con lo que resultara. El piez que lo posecione lo hara medir conforme á ordenanza dejando el sobrante á la nacion para los usos convenientes.

En consecuencia mando que teniendose por forme, y valedero se tome razon de el en el libro respectivo, y se entregue al interesado para su resguardo, y demas fines.

Dado en la ciudad de Los Angeles, en este papel comun por falta de sellado á veinte tres de Marzo, de mil ochocientos cuarenta y seis.

PIO PICO.
JOSE MATIAS MORENO,
Scr'o Int'o.

[3 S. D. K.]

Queda tomada razon de este superior despacho en el libro respectivo.
MORENO.

I certify that the foregoing title was deposited in the archives in this office in my charge, on the tenth day of July, 1850.

EDWARD CANBY,
Ass't Adj't General, U. S. Army.

Ass't Adj't General's Office, Hd. Qrs., 10th Military Dept., Monterey, July 13, 1850.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for California, and as such now having in my office and under my custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify, that the preceding and hereunto annexed pages of tracing paper, numbered one, two, and three, inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit a true and accurate copy of a document which is on file, and forms part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal (not having a seal of office) at the [SEAL.] city of San Francisco, Cal., the eighth day of January, 1853.

SAM'L D. KING,
Surveyor Gen'l, Cal.

Filed in office, January 14, 1853.

GEO. FISHER, *Sec'ry.*

B.—Translation of A.

Pio Pico, Constitutional Governor of the Department of California:

Whereas, Mr. Henry Cambuston has petitioned for his own personal advantage for a tract of unoccupied land in the valley of the Sacramento, joining on the north to Antonio Osio, on the south Mr. Sutter, on the east Mr. Flugge, and on the southwest the River Sacramento, the investigations being previously made according to the custom and in conformity with the law of the 18th of August, 1824, and the regulations of the 21st of November, 1820, in virtue of the powers which have been conferred on me in the name of the Mexican nation, I grant the tract of land expressed, lying out of the boundaries of the beforementioned landholders, declaring it his estate by the present letters, provided it shall be approved by the extreme departmental assembly, and under the following conditions:

1st. He may, without prejudice to the crossings, roads or attendances, fence it, enjoying it freely and exclusively, devoting it to any use or cultivation as best may suit his convenience.

2d. When the title shall be confirmed, he shall demand of the respective judge judicial possession of it by virtue of this despatch, by which the boundaries shall be designated with the necessary landmarks.

3d. The claim of land for which this grant is made has an area of eleven square leagues of pasture, if there is that outside of the property of the others, whose boundaries are to be respected; and if there should not be, the grantee shall be satisfied with that which remains.

The judge who gives possession shall cause it to be surveyed according to the ordinance, leaving the residue for the convenient uses of the nation.

Consequently, I command that he hold the present title as true and valid.

It shall be recorded in the respective book, and be delivered to the party interested for his security and other uses.

Given in the city of Los Angeles, on this common paper, for want of sealed, on the 23rd day of May, 1846.

(Signed) PIO PICO.
(Signed) JOSE MATIAS MORENO.

Filed in office, Jan. 14, 1853.
(Signed) GEO. FISHER, *Secretary.*

Opinion of the Board, delivered by Commissioner R. Aug. Thompson.

HENRY CAMBUSTON vs. THE UNITED STATES. } No. 511.

This is claim for eleven square leagues of land situated in the valley of the Sacramento, joining on the north Don Antonio Osio, on the south Mr. Sutter, on the east Mr. Flugge, and on the southwest the Sacramento river, and purports to be founded on a grant made to the

present claimant by Governor Pio Pico, on the 23rd day of May, 1846. The original grant is not produced, but it is in proof that it was in the possession of the grantee, and was deposited in the government archives in the year 1850, where it still exists. Its genuineness is fully established by the testimony.

It is also in proof that efforts were made by the grantee to occupy the land within a year after the grant was made; and that in the year 1847 he had a house on the land, occupied by his mayordomo, a stock of cattle, and a portion of it in cultivation.

The limits within which the location is to be made are established with sufficient certainty to bring the case within the principles settled by the supreme court in the case of John C. Fremont.

In accordance with which a decree of confirmation will be entered.

Filed in office, July 10, 1855.

(Signed) GEO. FISHER, *Sec'y*.

Decree of Confirmation.

HENRY CAMBUSTON vs. THE UNITED STATES. } No. 511.

In this case, on hearing the proofs and allegations, it is adjudged by the commission, that the claim of the said petitioner is valid, and it is therefore decreed that the same be confirmed.

The land of which confirmation is made is situated in Butte county, and consists of eleven square leagues, as described and located by the original grant to said claimant, on file among the archives in the custody of the United States surveyor general for the State of California, a traced copy of which is filed among the papers in the case, and to which reference is hereby made, provided the said quantity of eleven leagues be contained within the boundaries described in said grant; but if not, then this confirmation is for such less quantity as may be so embraced within the aforesaid boundaries.

R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office, July 10, 1855.

(Signed) GEO. FISHER, *Sec'y*.

Order.

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered, that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

OFFICE OF THE BOARD OF COMMISSIONERS

To ascertain and settle private land claims in the State of California.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirty-one pages, numbered from 1 to 31, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 511 on the docket of the said board, wherein Henry Cambuston is the claimant against the United States for the place known by the name of "Eleven square leagues of land."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Fran-
[SEAL.] cisco, California, this twenty-first day of November, A. D. 1855, and of the independence of the United States of America the eightieth.

Endorsed: GEO. FISHER, *Sec'y.*

Filed December 1st, 1859.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

Notice of Appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, 31 *Dec.*, 1855.

511.—"11 Square Leagues of Land."—Henry Cambuston, claimant.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 18th day of December, 1855, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING, *Attorney General*.

Filed Feb'y 11, 1856.

J. A. MONROE, *Cl'k*,
By W. H. CHEVERS, *Dep.*

Petition.

To the honorable District Court of the United States, in and for the northern district of California.

THE UNITED STATES, appellants,
vs.
HENRY CAMBUSTON, appellee. } No. 349.

The petition of the United States by their attorney represents, that this cause is an application for a review of the decision of the board of

commissioners, whereby the claim of the said appellee was confirmed, as appears by reference to the records in the case. That a transcript of the said records was filed in this court on the first day of December, 1855. That a notice of appeal was filed on the first day of February, 1856, and that the land claimed lies in the said district. That the said claim is invalid. Wherefore, appellants pray that the said decision of the board be reversed, and that this court decree the said title to be invalid.

S. W. INGE,
U. S. District Attorney.

Endorsed:
Filed Feb'y 25th, 1856.

J. A. MONROE, *Cl'k,*
By W. H. CHEVERS, *Dep'y.*

Answer.

The United States District Court for the northern district of California.

THE U. STATES, appellants,
vs.
HENRY CAMBUSTON, appellee.

Appeal from the U. S. Land Commission.

And now comes the said appellee by his attorney, and for answer to the petition of appellant says: There is no error in the judgment and proceedings of the said board of land commissioners in this case, and prays the same may be inquired of by the court.

V. E. HOWARD, *for Appellee.*

Endorsed:
Filed Feb'y 25, 1856.

J. A. MONROE, *Cl'k,*
By W. H. CHEVERS, *Dep'ty.*

Opinion of the Court, delivered by Ogden Hoffman, jr., U. S. Dist. Judge.

THE UNITED STATES
vs.
HENRY CAMBUSTON.

The original grant in this case is not produced, but it is shown to have been in the possession of the grantee in the year 1850, when it was deposited by him in the government archives, where it still remains.

A traced copy is however filed, and the genuineness of the original fully established by proof.

It appears in evidence that efforts to occupy the land were made by the grantee within the year, and that in 1847 he had built a house, stocked his rancho, and cultivated a portion of it, under the superintendence of mayordomo.

The exterior boundaries of the tract are sufficiently indicated in the grant, and the quantity of land to be taken within those boundaries is mentioned as 11 leagues, if so much can be found outside of the lands of the neighbors, whose lines are to be respected.

The commissioners have confirmed this claim; and although the absence of the espediente, containing the petition and other proceedings prior to the grant, prevents the proof in this case from seeming of so conclusive a character, as in many other cases, yet the board do not seem to have entertained any doubt as to its genuineness, nor has the claim been opposed in this court in any argument on the part of the U. States.

It has been submitted to us for decision without comment, and though we would have desired fuller proofs on the subject, we do not feel at liberty to disregard the uncontradicted evidence which establishes the genuineness of the grant.

The claim must therefore be confirmed.

Decree.

In the United States District Court for the northern district of California.

THE UNITED STATES, appellants,
vs.
HENRY CAMBUSTON, appellee.

Appeal from the United States Board of Land Commission for the adjustment of land titles in the State of California.

The above stated case being on appeal from the board of United States land commissioners for the adjustment of land titles in the State of California, organized under the act of Congress of 3rd of March, A. D. 1851, coming on for hearing on the record of said case in said commission, notice of appeal, petition for review, answer filed and issue joined in this court, it appearing to the satisfaction of the court, that the land claimed in this case by said appellee is situated in said northern district, and argument of counsel being heard, it is ordered, adjudged and decreed, that said claim is valid, and that the same be confirmed.

It is further ordered, adjudged and decreed, that said claim be confirmed, according to the limits in said grant described, bounded on the north by the land of Antonio Osio, on the south by the lands of Mr. Sutter, on the east by the lands of Mr. Flugge, and on the southwest by the river Sacramento, situated in Butte county, Cal.

It is further ordered, adjudged and decreed, that said claim is confirmed to the extent of eleven square leagues, if that quantity shall be found to be contained within the above described boundaries, and if the same shall contain less than eleven leagues, then for the less quantity which may be contained within said described boundaries.

OGDEN HOFFMAN, JR., *U. S. district judge.*

Endorsed:

Filed March 3rd, 1856. JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy.*

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Order granting Appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-house in the city of San Francisco, on Thursday, April 24th, 1856.

Present, Hon. Ogden Hoffman, jr., dist. judge.

THE UNITED STATES, appellants,
vs.
HENRY CAMBUSTON, appellee. } No. 349.

In this case, on the application of the United States attorney, made in open court, it is ordered by the court that an appeal in behalf of the United States from the final decision of the court rendered in said cause at the present term, be, and the same is hereby granted; and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court of the United States without delay.

Endorsed:
Filed April 24th, 1856.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

I, John A. Monroe, clerk of the district court of the United States of America for the northern district of California, do hereby certify the foregoing pages, from one to twenty-six inclusive, contain a full, true, and correct transcript of the record on file from the board of land commissioners, together with the pleadings, decree, order, and opinion filed in this office, in the case entitled The United States, appellants, vs. Henry Cambuston, appellee.

In testimony whereof I have hereunto set my hand, and affixed the seal of the said court, this twenty-fifth day of April, in the year of our Lord one thousand eight hundred and fifty-six, and of our independence the eightieth. [SEAL.]

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.